

**MEMORANDUM**

**TO:** Kaye Norton, Ohio Department of Health

**FROM:** Whitney Sullinger, Regulatory Policy Advocate

**DATE:** November 27, 2012

**RE:** **CSI Review-Nursing Home Personnel Requirements (OAC 3701-17-08)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

The Ohio Department of Health (ODH) submitted a rule package to the CSI Office for review consisting of one amended rule. Rule 3701-17-08 is being amended to reflect statutory changes made in recently-enacted House Bill 487 to section 3721.04 of the Ohio Revised Code. The following provisions regarding the number and qualifications of personnel in nursing homes and the services to be provided are set forth in statute:

- The rules shall not prescribe the number of individuals licensed as social workers under Chapter 4757 of the Revised Code that a nursing home with one hundred twenty or fewer beds must employ.
- The rules shall require each nursing home with more than one hundred twenty beds to employ on a full-time basis one individual licensed as a social worker under Chapter 4757 of the Revised Code.

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- The rules shall require each nursing home to offer its residents medically related social services that assist the residents in attaining or maintaining their highest practicable physical, mental, and psychosocial well-being.

The proposed amendments to rule 3701-17-08 implement the requirements listed above. Nursing homes must now have a social services staff to meet the needs of its residents. Nursing homes with 120 beds or fewer are no longer required to have a social worker on staff.

After reviewing the BIA, the CSI Office requested ODH revise its discussion surrounding the Business Impact Analysis. Since the rule is not being reviewed under the five-year requirement of ORC 119.032, ODH was only required to analyze the impact from the proposed amendments. A revised BIA was submitted November 26, 2012.

According to ODH, there are 934 licensed nursing homes in Ohio as of September 2012. The adverse impact of rule 3701-17-08 consists of the cost of staff. More specifically, a full-time social worker is required for nursing homes with more than 120 beds, and all homes must have a social services staff. It should be noted that nursing homes with 120 beds or fewer no longer are required to have a social worker on staff. ODH states the following costs in its BIA:

- Social services staff:
  - \$13.84 per hour (\$28,790 per year)
- Social worker:
  - \$22.85 per hour ( \$47,530 per year)

The CSI Office is not suggesting any further changes with respect to the rules or the BIA for the following reasons:

- The provisions of the rules that impact businesses were required by statute.
- No comments were received from the public during the public comment period.
- The revised BIA submitted by ODH is accurate and complete and does not raise any ongoing issues.
- Generally, the rule package satisfactorily meets the standards espoused by the CSI Office.

### **Recommendation**

For the reasons explained above this office does not have any recommendations regarding this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.